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5 Attorney for Defendant  
6 MICHAEL TOMADA

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 OAKLAND DIVISION  
10

11 UNITED STATES OF AMERICA,	)	CR-14-0285 JST
12 Plaintiff,	)	STIPULATION AND <del>{PROPOSED}</del> ORDER
13 vs.	)	VACATING STATUS CONFERENCE DATE
14 JEREMY DONAGAL, et al.,	)	AND SETTING NEW DATE FOR FURTHER
15 Defendants.	)	<u>STATUS CONFERENCE</u>
16	)	
17	)	

18 The United States of America, by its attorneys, Melinda Haag, United States  
19 Attorney ("USA"), and Assistant United States Attorney ("AUSA") KEVIN BARRY, and  
20 defendants MICHAEL TOMADA and CHRISTOPHER NEELY, by their respective  
21 counsel, attorneys Peter Goodman and Brian Berson, hereby submit this Stipulation  
22 and [Proposed] Order requesting that the August 21, 2015, date currently set for the  
23 defendants to appear before this Court for a Status Conference be vacated and their  
24 cases be continued to October 2, 2015, for a further Status Conference.

25 The parties hereby stipulate and agree to the following:

26 1. On May 22, 2014, an eleven count indictment was returned in this matter  
27 against seven defendants, including defendants TOMADA and NEELY. The indictment  
28 charged the defendants with conspiring to possess and possessing with the intent to

1 distribute alprazolam and other controlled substances in violation of 21 U.S.C. §§846  
2 and 841(a)(1).

3 2. On May 30, 2014, Nicole Giacinti was appointed to represent defendant  
4 TOMADA. On January 14, 2015, Ms. Giacinti filed an *Ex Parte Request to Withdraw*  
5 *As Counsel* as the result of a conflict of interest created by her acceptance of a position  
6 at the Judicial Counsel of California. On January 15, 2015, her request to withdraw was  
7 granted.

8 3. On February 6, 2015, Peter Goodman was appointed to represent  
9 defendant TOMADA. Given the volume of discovery and his late entry into the case,  
10 Mr. Goodman has joined in three previous stipulations between the parties to continue  
11 the status conferences in this case. Mr Goodman has joined in those stipulations to  
12 afford him sufficient time to review the voluminous discovery in this case consisting of  
13 over 800 intercepted telephone calls, texts and e-mails, 500 transcripts of those calls,  
14 texts and e-mails, 70 video recordings and hundreds of surveillance photos. He also  
15 needs to examine the content of the three computers, the Western Digital hard drive,  
16 the four cell phones and the thumb drives seized from Mr. Tomada's home pursuant  
17 to the execution of a search warrant for federal authorities on May 28, 2014. Despite  
18 diligent efforts in that regard since this matter was last continued on June 26, 2015,  
19 Mr. Goodman has not yet been able to complete that review.

20 4. Last month, Mr. Berson made a formal request that the U.S. Attorney's  
21 office consider a referral to PTS for an evaluation of defendant NEELY's suitability for  
22 a diversion disposition. The U.S. Attorney's office has not finished considering this  
23 request. In addition, the U.S. Attorney's office is still trying to locate some discovery  
24 that Mr. Berson requested on behalf of defendant NEELY.

25 5. Given the amount of discovery not yet reviewed by counsel for defendant  
26 TOMADA or not yet provided to counsel for defendant NEELY and the pending diversion  
27 request of defendant NEELY, Mr. Goodman and Mr. Berson are jointly requesting that  
28 the current date for a status conference in this matter of August 21, 2015, be vacated

1 and the matter be continued to October 2, 2015, at 9:30 a.m. before this Court for a  
2 further status conference. AUSA Barry has been informed by defense counsel of their  
3 request for a continuance and has indicated that he does not oppose that request.

4 6. The parties hereby stipulate and agree that time should be excluded under  
5 the Speedy Trial Act pursuant to 18 U.S.C. §§3161(h) (7)(A) and (7)(B)(iv) from August  
6 21, 2015, through October 2, 2015, in the interests of justice and to ensure the effective  
7 assistance of counsel for defendants TOMADA and NEELY.

8 SO STIPULATED

9 DATED: August 18, 2015

MELINDA HAAG  
United States Attorney

12 By: /s/  
13 KEVIN BARRY  
Assistant United States Attorney

15 SO STIPULATED

16 DATED: August 18, 2015

18 /s/  
19 PETER GOODMAN  
Attorney for Defendant  
MICHAEL TOMADA

21 SO STIPULATED

22 DATED: August 18, 2015

24 /s/  
25 BRIAN BERSON  
Attorney for Defendant  
CHRISTOPHER NEELY

1                    ORDER VACATING STATUS CONFERENCE DATE AND  
2                    SETTING NEW DATE FOR FURTHER STATUS CONFERENCE

3                    Based on the stipulation of the parties and good cause appearing therefor,  
4 IT IS HEREBY ORDERED that the August 21, 2015, date currently set for defendants  
5 TOMADA and NEELY to appear before this Court for a Status Conference is vacated  
6 and the matter is continued to October 2, 2015, at 9:30 a.m. for a further Status  
7 Conference.

8                    IT IS FURTHER ORDERED that time shall be excluded under the Speedy Trial  
9 Act pursuant to 18 U.S.C. §§3161(h)(7)(A) and (B)(iv) from August 21, 2015, through  
10 October 2, 2015, in the interests of justice and to ensure effective assistance of counsel.  
11 The Court finds that the ends of justice served by granting the continuance outweigh  
12 the best interests of the public and the defendant in a speedy trial.

13 DATED: August 19, 2015

